IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 480 of 1995

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NARENDRASINH RANJITSINH CHAVDA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Appeal No. 480 of 1995

MR PM VYAS for Petitioner No. 1

MR PR ABICHANDANI, APP for Respondent

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 18/07/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

This conviction appeal under section 374 of the Code of Criminal Procedure 1973 (Cr.P.C. for short) at the instance of the appellant, original accused, is against the judgment of the learned Additional Sessions Judge, Kheda at Nadiad, in Sessions Case No.300 of 1993, by which the appellant-original-accused came to be convicted for the offence punishable under section 302 of the Indian Penal Code (IPC for short) and sentenced to undergo rigourous imprisonment for life and also fine of Rs.100 and in default to undergo simple imprisonment for 15 days.

A few material skeleton projection of facts leading to the rise of this appeal may be highlighted, at the outset, so as to appreciate the merits of the appeal and challenge against it. As per the prosecution case, the appellant-accused intentionally committed offence of murder by killing one Sadhu on 2.9.93 at about 10.30 a.m. near Punit Ashram, Dakor by inflicting several blows with wooden log on the head of the deceased, and that too, for a petty cause and motive. It was the case of the prosecution that there was a quarrel between the deceased and the accused for a petty cause in the compound of Bhojnalay of Punit Ashram at Dakor which prompted and provoked the accused, as a result of which he took up wooden log and gave several blows on the head of the deceased Sadhu, who was immediately shifted to SSG Hospital at Baroda, where he was found and declared dead. The accused was caught immediately after the incident and complaint came to be lodged. The accused came to be arrested and investigation was carried on and upon completion of the investigation, case came to be committed to the Court of learned Additional Sessions Judge, Kheda at Nadiad, and the accused was charged under section 302, to which he denied and claimed to be tried.

The prosecution placed reliance on the following witnesses:

1. Natwarsinh D. Chavda, PW-1 (Ex.6)
2. Satishkumar C. Joshi, PW-2 (Ex.7)
3. Ishwarbhai L. Parmar, PW-3 (Ex.8)
4. Rajesh M. Sukhadia, PW-4 (Ex.10)
5. Melabhai Chandubhai, PW-5 (Ex.11)
6. Dr.Rakesh N. Tandon, PW-6 (Ex.15)
7. Dr.Uday S. Shah, PW-7 (Ex.18)
8. Devendragiri.H. Goswami, PW-8 (Ex.21)

The prosecution has also strongly relied on the following documents to which reference will be made as and when required at an appropriate stage hereinafter.

1. Panchnama of place of incident (Ex.9)
2. Panchnama of arrest (Ex.12)
3. Inquest Panchnama (Ex.13)
4. Post Mortem Notes (Ex.16)
5. Medical certificate (Ex.19)
6. Medical certificate (Ex.20)
7. Complaint (Ex.22)
8. Panchnama of cloth (Ex.14)
9. FSL reports (Ex.24)
10. Serological report (Ex.26).

Prosecution witness No.6, Dr. Rakesh N. Tandon (Medical Officer) was examined at Ex.15. He has clearly testified in his evidence that the deceased had sustained as many as 7 injuries which were possible by hard blunt substance like wooden log held by the accused at the time of committing offence. The Medical Officer found following external injuries:

1. Abrasion size 3 c.m. x. 2 c.m. dark reddish over the forehead extending left of midline and 3 c.m. above medial part of left eye-brow.

2. Abrasion dark reddish size 2.5 c.m. x 1.5 c.m. over right forehead 3 c.m. right of midline and 3 c.m. above middle of right eye-brow.

3. Stitched (lacerated) wound size 2.5 c.m. present overlying the outer part of left eye-brow on removing stiches wound is 0.5 c.m. wide and more deep margins.

4. Stitched (lacerated) wound size 2.5 c.m. present on left forehead 5 c.m. left of middle and 2 c.m. of outer part of left eye-brow. On removing stiches would is more deep and 0.5 c.m. margins are abroded.

5. Abrasion size 5 c.m. x 2.5 c.m. present over right posterior projected region dark reddish colour placed 10 c.m. over right eye.

6. Stitched lacerated wound size 5 c.m. present over left occipital region 8 c.m. behind left ear placed transversely . On removing stiches wound is more deep and 1 c.m. wide margins are

abroded.

7. Swelling present over left occipital region and left frontal region.

It is, also, very, clearly, stated by Dr.Tandon that the cause of death was craniocerebral damage following head injury and it was possible due to injuries sustained by deceased and which were possible by the infliction of blows by wooden log and they were sufficient in ordinary course of nature to cause death. He had also performed the post-mortem examination and Post Mortem Notes are produced at Ex.16. It becomes, therefore, very clear from the medical evidence that the deceased Sadhu had died a homicidal death. The question now required to be considered and examined is as to who was the author of the homicidal death of deceased Sadhu. The prosecution case has been that the accused is responsible for the homicidal death as he inflicted several blows with wooden log on the head and other parts of the body of the deceased. The version of the prosecution is very much supported by the medical evidence of Dr.Tandon (PW-6) who was examined at Ex.15. The accused was caught red handed and there are two eye witnesses. The complaint was lodged immediately and the Police had also started investigation immediately. The FIR is produced at Ex.22. It also lends corroboration of the version of the prosecution.

Apart from that, we have been taken through the evidence of eye-witnesss and other documents by the learned advocate Mr.Vyas appearing for the appellant-accused and the learned APP Mr.Abichandani, in course of their submissions before us. PW-1, eye-witness, Natvarsinh D. Chavda was examined at Ex.6. He was present at the time of incident and there is nothing on record to doubt his presence. It is clearly manifested without any tint of exaggeration from his testimony that the accused had inflicted as many as seven blows with the help of wooden log on the head of the deceased Sadhu. He is an independent eye-witness who was present at the time of incident and he has no axe to grind against the accused. Nothing has been shown which would even remotely affect the testimonial utility and credibility of the evidence of eye-witness PW-1, Natvarsinh D. Chavda. His evidence is also fully corroborated by the evidence of another eye-witness PW-2, Satishkumar C. Joshi, who was examined at Ex.7. He was working as an Accountant. He was also present at the time of incident and his evidence radiates an imprint of truth. He also supports the version of the prosecution pointing at the culpability of the accused in

committing the offence of murder. There are other circumstances and documentary evidence,like report of Forensic Science Laboratory, complaint, Inquest Panchnama which, all, lend support to the case of the prosecution and the evidence of two eye-witnesses. We have also examined and evaluated the text, tenor and texture of the impugned judgment of the Trial Court.

After having taken into consideration the entire evidence emerging from the record of the present case together with the impugned judgment, we have no doubt in our mind that the conviction and the resultant sentence for life imprisonment awarded by the Trial Court, upon true analysis and evaluation of the evidence is quite justified requiring no interference in this conviction appeal. We are, therefore, of the opinion that the appeal is meritless and deserves to be dismissed. Accordingly, it shall stand dismissed.

(J.N.Bhatt, Acting CJ)

(A.L.Dave, J.)
(vjn)